

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY BOWIE JR.,

Case No. 1:07-CV-755

Plaintiff,

Hon. Richard Alan Enslen

v.

PAUL KLEE, *et al.*,

JUDGMENT

Defendants.

This matter is before the Court on United States Magistrate Judge Ellen S. Carmody's Report and Recommendation of January 10, 2008, which recommended dismissal of Plaintiff Gregory Bowie Jr.'s civil rights action for failure to state a claim. The Report and Recommendation was duly served on the parties. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C). Accordingly, the Court will adopt the Report.

This matter is also before the Court on Plaintiff's "Request for Retention of Filing Fees for Correct Filing." Plaintiff does not articulate which Federal Rule of Civil Procedure he is proceeding under or the specific relief he seeks. In accordance with the indulgent standard accorded *pro se* filers, *see Haines v. Kerner*, 404 U.S. 519, 520 (1972), the Court must decipher Plaintiff's intention. In Plaintiff's filing, he states: "It is therefore, Plaintiff's humble request that Your Honor could [sic] grant Plaintiff the opportunity and time to, correct this filing or, allow Plaintiff to re-file this civil rights action but retain the granted leave to proceed in forma pauperis." Plaintiff's filing is best characterized as a Motion for Leave to Amend his Complaint and the Court will analyze it as such.

Plaintiff has not filed with the Court his proposed amendment to the Complaint or otherwise indicated what he intends to amend. "Under the Prison Litigation Act, courts have no discretion in

permitting a plaintiff to amend a complaint to avoid sua sponte dismissal. If a complaint falls within the requirements of § 1915(e)(2) when filed, the district court should sua sponte dismiss the complaint.” *McGore v. Wigglesworth*, 114 F.3d 601, 612 (6th Cir. 1997). Thus, the Court will deny Plaintiff’s Motion for Leave to Amend.

THEREFORE, IT IS HEREBY ORDERED that the Report and Recommendation (Dkt. No. 5) is **ADOPTED** as the Opinion of the Court, all of Plaintiff Gregory Bowie Jr.’s federal law claims are **DISMISSED WITH PREJUDICE**, and all of Plaintiff’s state law claims are **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that upon review of Plaintiff’s claims, the Court can discern no good-faith basis for an appeal and so certifies in accordance with *McGore v. Wigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997).

IT IS FURTHER ORDERED that Plaintiff’s Motion for Leave to Amend the Complaint (Dkt. No. 6) is **DENIED**.

DATED in Kalamazoo, MI:
February 8, 2008

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE